

REMARKS/ARGUMENTS

The Examiner is thanked for extending the courtesy of a personal interview to Applicant's representative on May 19, 2004.

Reconsideration and allowance of this application are respectfully requested. Currently, claims 2-12 and 17-21 are pending in this application.

Finality of the Office Action:

Applicant submits that the finality of the December 4, 2003 Office Action is premature. For example, the previous amendment to claim 2 merely involved rewriting this claim in independent form. Applicant therefore submits that the amendment involving rewriting this claim in independent form could not have possibly necessitated the new grounds of rejection. Applicant thus requests that the finality of the Office Action be withdrawn and the above claim amendments be entered.

Rejections Under 35 U.S.C. § 103:

Claims 2-3 and 8-18 were rejected under 35 U.S.C. §103 as allegedly being unpatentable over Mikelaitis in view of Christensen et al (U.S. '666, hereinafter "Christensen").

In order to establish a prima facie case of obviousness, all of the claimed limitations must be taught or suggested by the prior art. Applicant submits that the combination of Mikelaitis and Christensen fails to teach or suggest all of the claimed limitations. For example, the combination fails to teach or suggest

“wherein the exchanging of the call control capability data is carried out prior to initiating call set-up,” as required by claim 2. Applicant submits that the combination also fails to teach or suggest “wherein the means for exchanging exchanges the call control capability data prior to when the means for setting initiates setting up the call between the communications terminal and the other communications terminal,” as required by claims 17 and 18 or “the setting up of the call by the means for setting up being initiated after exchange of call control capability data is performed by the means for exchanging call control capability data,” as required by claims 8 and 10.

Applicant notes that the International Preliminary Examination Report states the following:

“2.4) The combination of the features of dependent claim 2 is neither known from, nor rendered obvious by, the available prior art.

The step of exchanging call control capability data is carried out prior to initiating call set-up.

The advantage of exchanging this data at that time is that it is not necessarily to start or proceed with the setup of the call if a terminal has not the capability. The process of exchanging call control capability data is now independent of the call setup and improves therefore the flexibility of the method.”

The Office Action apparently alleges that paragraphs 5.4-5.5 of Mikelaitis discloses “wherein the exchanging of the call control capability data is carried out prior to indicating call set-up.” For example, the last paragraph of page 3 of the Office Action states:

“wherein the exchanging of the call control capability data is carried out prior to initiating call set up, as recited by claims 2, 15-18, (once the network is able to proceed with the call (i.e all necessary information is available to the exchange) a signaling association over CCSS No. 7 is established between the calling and called exchanges, paragraph 5.4, once the D-channel signaling dialogue results in network wide connection for user traffic----a customer can not only transfer information ---but can also transfer user information, paragraph 5.5).”

Applicant disagrees with the apparent allegation that paragraphs 5.4 and 5.5 of Mikelaitis disclose exchanging call control capability data prior to initiating call set-up. For example, Fig. 5.8 of Mikelaitis described in paragraph 5.5 describes messages which can be transmitted between terminals after a call has been set-up. There is no communication of information from the destination terminal to the originating terminal (or vice versa) in Mikelaitis until after the call has been established.

Mikelaitis discloses a call connection procedure which first involves communications only between the originating terminal and the network. In particular, the originating terminal negotiates with the network either by offering a list of requested levels of service or by having the network simply informing the originating terminal of the best it can offer. Secondly, the call connection procedure then involves separate communications only between the network and the destination terminal. In particular, the network contacts the destination terminal and informs it of the proposed type of connection. The destination

terminal then checks to see if it is currently compatible with that type of connection or if it can reconfigure itself in some way to become compatible. If the destination is not currently compatible or cannot reconfigure itself to be compatible, the destination terminal simply ignores the call (see Section 5.4.2 of Mikelaitis).

Mikelaitis also fails to teach or suggest exchanging call control capability between two terminals at all. In particular, paragraph 5.5 of Mikelaitis discloses a distinction between information being sent over the supplied network connection and the network signaling connection (i.e., the D channel). That is, the user is able to transmit information (user information because the user has complete control over what is transmitted) along the supplied network connection (i.e., the main 64 kbit voice/data channel), the user can also transmit more user information along the network signaling association (i.e., the D-channel). The user terminals can therefore transfer any user information over the D-signaling channel. However, there is no specific indication regarding what type of information this is. That is, there is no specific teaching or suggestion of what type of information is exchanged by the user as the user information. Accordingly, Mikelaitis fails to further teach or suggest exchanging call control capability data between the terminals.

Christensen discloses communications between a station and a concentrator port by establishing a registration routine between the station and the concentrator

port. However, Christensen fails to disclose communications between two stations wherein the exchange of call control capability data between the two stations is carried out prior to initiating call set-up. Accordingly, even if Mikelaitis and Christensen were combined as proposed by the Office Action, the combination would not have taught or suggested all of the claimed limitations. Accordingly, Applicant requests that the rejection under 35 U.S.C. §103 over Mikelaitis and Christensen be withdrawn.

Claims 4 and 5 were rejected under 35 U.S.C. § 103 as allegedly being unpatentable over Mikelaitis and Christensen in view of Katsube (U.S.P. '264). Claims 6 and 7 were rejected under 35 U.S.C. § 103 as allegedly being unpatentable over Mikelaitis and Christensen in view of Markgraf et al. (U.S.P. '691, hereinafter "Markgraf"). Since claims 4-5 and 6-7 depend at least indirectly from independent claim 1, Applicant submits that the comments made above with respect to claim 1 apply equally to these claims. Neither Katsube nor Markgraf remedies the above deficiencies of the combination of Mikelaitis and Christensen. Applicant therefore respectfully requests that the rejection of claims 4-5 and 6-7 under 35 U.S.C. § 103 be withdrawn.

New Claims:

New claims 19-21 have been added to provide additional protection for the invention. New claim 19 requires, *inter alia*, "wherein the receiving of call control capability data is performed prior to initiating call set-up." Claims 20-21 require,

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inter alia, "the setting of the call by the means for setting up being initiated after the call control capability data is received by the means for receiving." Applicant therefore submits that claims 19-21 are allowable.

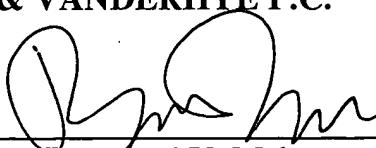
Conclusion:

Applicant believes that this entire application is in condition for allowance and respectfully requests a notice to this effect. If the Examiner has any questions or believes that an interview would further prosecution of this application, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

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By: _____


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